

## Notice of Allowability

Application No.

10/519,131

Examiner

Marsha M. Tsay

Applicant(s)

SOUPPE, JEROME

Art Unit

1656

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' after final amendment received March 5, 2007.
2. ☒ The allowed claim(s) is/are 1-22,28-34,36-38 and 40.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Raymond Linker on May 4, 2007.

The application has been amended as follows:

In the claims:

13. (currently amended) The process as claimed in claim 1, wherein the aqueous ~~saline~~ salt solution used for carrying out the invention is a solution of a chloride of an alkali metal chosen from  $K^+$ ,  $Na^+$ ,  $Ca^{2+}$ ,  $Mg^{2+}$ .

14. (currently amended) The process as claimed in claim 12, wherein the aqueous ~~saline~~ salt solution is an aqueous sodium chloride solution.

15. (currently amended) The process as claimed in claim 14, wherein the aqueous ~~saline~~ salt solution has a concentration of between 2 and 25% by weight of salt per weight of liquid.

16. (currently amended) The process as claimed in claim 14, wherein the aqueous ~~saline~~ salt solution has an ionic strength of between 1 and 2 M.

17. (currently amended) The process as claimed in claim 1, wherein the pH of the aqueous ~~saline~~ salt solution for elution is between 6 and 7.

23. canceled.

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24. canceled.

25. canceled.

26. canceled.

27. canceled.

34. (currently amended) A food intended for the ~~prevention~~ treatment of a pathology selected from: growth retardation, osteoporosis, bone fragility, bone fractures, rheumatism, osteoarthritis, periodontal diseases, and intestinal barrier deficiency, or intended to promote the growth of osteoblasts and/or of intestinal cells and/or to inhibit the growth of preosteoclasts, said food being prepared from a milk protein fraction as claimed in claim 22.

37. (currently amended) A medicament intended for the ~~prevention and/or~~ treatment of a pathology selected from: growth retardation, osteoporosis, bone fragility, bone fractures, rheumatism, osteoarthritis, periodontal diseases, and intestinal barrier deficiency, or intended to promote the growth of osteoblasts and/or of intestinal cells and/or to inhibit the growth of preosteoclasts, said medicament comprising a milk protein fraction as claimed in claim 22.

The following is an examiner's statement of reasons for allowance: the instant claims are drawn to a method for isolating milk proteins from milk or whey comprising a) sterilizing and defatting the milk or whey; b) passage over a cation-exchange resin conditioned in an elution column; c) the retained fraction is eluted with an aqueous salt solution; d) the eluate resulting from step c) is desalted and sterilized. Additionally, the retention and elution steps of the instant method are also governed by binding parameters (BV, SL, LV) and elution parameters (BV, LV), all of which are defined in the specification. The instant method makes it possible to obtain

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a protein fraction with biological properties, i.e. stimulating the proliferation of osteoblasts, inhibiting the proliferation of pre-osteoclasts; therefore, resulting in improved benefits for bone growth and strength. The claims clearly define the invention and are free of the art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 1-22, 28-34, 36-38, and 40 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marsha M. Tsay whose telephone number is 571-272-2938. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Kathleen Kerr Bragdon can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 4, 2007

*M. Monshipouri*  
MARYAM MONSHIPOURI, PH.D.  
PRIMARY EXAMINER